

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 29609 of 2006(Y)

PETITIONER:

JERRY JAMES, S/O.JAMES,
AGED 33, KUTTANPALLY HOUSE,
MELAMPARA P.O., KOTTYAM DIST., REPRESENTED BY
HIS POWER OF ATTORNEY HOLDER JAMES,
S/O.CHACKO, AGED 59, KUTARAPPALLY HOUSE,
MELAMPARA P.O., KOTTAYAM DIST.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:

1. THE BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
PALAI BRANCH, PALAI P.O.
2. SPECIAL DEPUTY TAHSILDAR (RR),
K.S.F.E.LTD., M.D.COMMERCIAL CENTRE,
KOTTAYAM.
3. THE KERALA STATE FINANCIAL ENTERPRISES
LTD., BHADRATHA, P.B.NO.510, MUSEUM ROAD,
THRISSUR REP.BY ITS MANAGING DIRECTOR.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/11/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

.....
W.P.(C) No.29609 of 2006
.....

Dated this the 28th day of November, 2006.

JUDGMENT

Since counsel for the petitioner submitted that petitioner will settle liability before 15.1.2007 by sale of mortgaged property, I feel an opportunity can be granted to the petitioner. Even though petitioner can negotiate sale and enter into agreement for sale, no sale deed shall be executed before clearing liability to KSFE which can be paid by the purchaser under agreement with the seller. As and when liability is cleared, KSFE will release title deed to the petitioner to execute sale deed. If liability is not settled before 15.1.2007, then it would be open to the KSFE to sell the mortgaged property and proceed against the other properties of the debtor and guarantors for recovery of arrears. If petitioner is entitled to OTS benefit for payment and if payment by 30.11.2006 is a condition, still there will be direction to the KSFE to grant OTS benefit to the petitioner on petitioner paying interest at 15% per annum for the belated payment i.e. from 1.12.2006 till date of payment. No collection charges also should be recovered if payments are made voluntarily.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms